

Assembly Bill No. 2861

CHAPTER 96

An act to add Section 7153.2 to the Health and Safety Code, relating to anatomical gifts.

[Approved by Governor June 30, 1996. Filed with
Secretary of State July 1, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2861, Villaraigosa. Anatomical gifts: disabilities: discrimination.

Under existing law, the Uniform Anatomical Gift Act, an individual who is at least 18 years of age may make an anatomical gift for any of the various stated purposes, limit an anatomical gift to one or more of those purposes, or refuse to make an anatomical gift.

This bill would preclude a hospital, physician and surgeon, procurement organization, or other person from determining the ultimate recipient of an anatomical gift on the basis of the potential recipient's physical or mental disabilities, as defined in the federal Americans with Disabilities Act of 1990, except to the extent that the physical or mental disability has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

This bill would provide that these provisions shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants, as defined.

The bill would require a court to accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this provision.

The people of the State of California do enact as follows:

SECTION 1. Section 7153.2 is added to the Health and Safety Code, to read:

7153.2. (a) No hospital, physician and surgeon, procurement organization, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability, except to the extent that the physical or mental disability has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

(b) Subdivision (a) shall apply to each part of the organ transplant process. The organ transplant process includes, but is not limited to, the following:

- (1) The referral from a primary care provider to a specialist.
- (2) The referral from a specialist to a transplant center.
- (3) The evaluation of the patient for the transplant by the transplant center.
- (4) The consideration of the patient for placement on the official waiting list.

(c) A person with a physical or mental disability shall not be required to demonstrate postoperative independent living abilities in order to have access to a transplant if there is evidence that the person will have sufficient, compensatory support and assistance.

(d) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this section.

(e) This section shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants.

(f) As used in this section “disabilities” has the same meaning as in the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq., Public Law 101-336).

